FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

SECOND APPEAL (ST) NO.20633 OF 2001

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

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Coram : R.S.Mohite,J

Date : 03.12.2004.

PC

1. This is an appeal filed by the original defendant nos.1 & 2. The plaintiff admittedly, is the owner of one CTS No.2781. Defendant Nos.1 & 2 are the tenants of defendant no.3 who had premises on adjoining plot. Initially, the plaintiff had filed a suit for injunction against construction by the defendants on his plot. But after filing of the Suit in 1988, since defendants 1 & 2 constructed a bathroom on CTS No.2781 the plaint was amended and mandatory injunction was sought regarding removal of the

constructed bathroom. The case of defendant nos.1 & 2 in their additional Written statement was that no such bathroom was constructed in 1988. Both the Courts have concurrently held as a matter of fact that the said offending bathroom was constructed on CTS No.2781 after the suit was filed. It is clear from the record that none of the defendants stepped into the witness box. There is a concurrent finding of fact about the bathroom being built pending the suit. There is no dispute about the plaintiffs' ownership of CTS No.2781.

2. In this view of the matter, there is no substantial question of law raised in the appeal. Hence, appeal is dismissed. Interim reliefs granted stands vacated.

(R.S.Mohite,J)